

REMARKS

Claims 8 and 10-16 were pending and rejected.

Claim 8 has been amended by incorporating the subject matter of Claims 10 and 13, which have been canceled, without prejudice. Further support for the subject matter of volatile silicone oil may be found in the Specification at page 6, as well as original claim 4.

Claim 15 has been canceled, without prejudice.

Care has been taken not to introduce any new matter.

These amendments to the claims should obviate the rejection of the claims under 35 USC 112, paragraphs 1 and 2. Applicants, therefore, respectfully request that the rejection be withdrawn.

The Present Invention

The present invention relates to a cosmetic composition for skin and hair which delivers a moisturizing effect, without a sticky sensation. The cosmetic non-sticky moisturizer for skin and hair includes

(a) at least about 10% by weight of the composition of a polyhydric alcohol humectant;
(b) about 0.01% to about 10% of a polymeric wetting agent which forms a uniform film in a Wetting Test selected from the group consisting of :

- (b1) an amphipathic block copolymer;
- (b2) a polymer containing a hydrophilic backbone modified with hydrophobic groups; and
- (b3) mixtures thereof;

(c) an elastomer and a volatile silicone oil;

(d) a cosmetically acceptable vehicle.

The moisturizing capabilities of humectants, such as glycerol and sorbitol, are concentration dependent. Unfortunately, when incorporated into formulations at concentrations above 10%, they confer a sticky, tacky feeling. Due to this unpleasant consumer sensory experience, formulations containing higher levels of humectants are, for the most part, not commercially acceptable. The present invention meets the need for commercially acceptable moisturizing compositions containing higher levels of humectants..

The polymeric wetting agents are selected for inclusion in the inventive compositions by testing the polymer in a Wetting Test . The data in Tables A and B at page 5 of the present specification show that not all polymers form a uniform film in a Wetting Test. For example, while Pemulen TR2 forms a uniform film, Carbopol 981 does not. *The cited art does not disclose or suggest the selection of polymers that meet the Wetting Test in order to avoid stickiness in compositions containing more than about 10 % polyhydric alcohol.*

The Claims are Not indefinite under 35 USC § 112

Claims 8 and 10-16 were rejected under 35 USC 112. Applicants respectfully traverse this rejection because, among other reasons, polymeric wetting agents are enabled as meeting the Wetting Test and because the dependent claims relate to optional ingredients which do not materially affect the inventive composition. Nevertheless, in the interest of progressing the present application to issuance without delay, the claims have been amended as follows, without prejudice.

Claim 8 has been amended to recite amphipathic block copolymer, hydrophobically modified polymers, and mixtures thereof. Accordingly, the enablement rejection has been rendered moot.

Claims 11, 12, and 16 include "optional" ingredients, in addition to the essential components of the independent Claim 8. Many of these optional ingredients are part of the cosmetically acceptable vehicle. The optional ingredients do not materially affect the novel aspects of the invention, which is a non-sticky composition that is moisturizing, as discussed above in "The Present Invention" section. Support for Claim 11 may be found in original Claim 5. Support for Claim 12 may be found in the Specification. Support for Claim 16 may be found in the original claim 6. Accordingly, the claims are in compliance with 35 USC 112, second paragraph.

In view of the foregoing amendments and remarks, Applicants maintain that claims 8, 10-12, 14 and 16 are in condition for allowance and respectfully request a Notice of Allowance.

Respectfully submitted,



Ellen Plotkin
Registration No. 36,636
Attorney for Applicant(s)

(201) 894-2253

e:\data\word\patents\J6655\9-Amd6-21-05.doc